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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,014	12/10/1999	JACQUES DUMAS	BAYER11-C1	8328
23599 7590 05/10/2007 MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			EXAMINER CHONG, YONG SOO	
			ART UNIT 1617	PAPER NUMBER
			MAIL DATE 05/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/458,014

Applicant(s)

DUMAS ET AL.

Examiner

Yong S. Chong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 March 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19, 21-34, 37-55 and 57 is/are pending in the application.
- 4a) Of the above claim(s) 5-19, 21-27, 39-41, 52 and 53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-4, 28-34, 37-38, 42-51, 54-55, 57 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Status of the Application***

This Office Action is in response to applicant's response filed on 3/7/2007.

Claim(s) 20, 35-36, 56 have been cancelled. Claim(s) 1-19, 21-34, 37-55, 57 are pending. Claim(s) 1, 17, 25, 42, 50, 52, 55 have been amended. Claim(s) 5-19, 21-27, 39-41, 52-53 have been withdrawn as a result of the Restriction Requirement filed on 8/24/2005 from the previous Examiner. A proper response regarding election to Group V and the species are acknowledged. The specie requirement towards a single disclosed disease is now withdrawn. Claim(s) 1-4, 28-34, 37-38, 42-51, 54-55, 57 are now subject to a further Restriction Requirement as deemed necessary by the current Examiner.

### ***Election/Restrictions***

Restriction to the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-4, 28-34, 37-38, 42-51, 54-55, 57 are drawn to a method of treating rheumatoid arthritis by administering a 1,3 oxazole according to formula I, classified in 514/385.
- II. Claims 1-4, 28-34, 37-38, 42-51, 54-55, 57 are drawn to a method of treating osteoporosis by administering a 1,3 oxazole according to formula I, classified in 514/385.
- III. Claims 1-4, 28-34, 37-38, 42-51, 54-55, 57 are drawn to a method of treating osteoarthritis by administering a 1,3 oxazole according to formula I, classified in 514/385.
- IV. Claims 1-4, 28-34, 37-38, 42-51, 54-55, 57 are drawn to a method of treating asthma by administering a 1,3 oxazole according to formula I, classified in 514/385.

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- V. Claims 1-4, 28-34, 37-38, 42-51, 54-55, 57 are drawn to a method of treating septic shock by administering a 1,3 oxazole according to formula I, classified in 514/385.
- VI. Claims 1-4, 28-34, 37-38, 42-51, 54-55, 57 are drawn to a method of treating inflammatory bowel disease by administering a 1,3 oxazole according to formula I, classified in 514/385.
- VII. Claims 1-4, 28-34, 37-38, 42-51, 54-55, 57 are drawn to a method of treating results from host-versus-graft reactions by administering a 1,3 oxazole according to formula I, classified in 514/385.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-VII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are drawn to various diseases, with different etiologies, symptoms, and treatment regimens. The search for one will not lead to the search of the other. Because these inventions are distinct for the reasons given above and the search required for one invention is not required for another, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

A telephone call to the attorney is not required where: 1) the restriction requirement is complex, 2) the application is being prosecuted pro se, or 3) the examiner knows from past experience that a telephone election will not be made (MPEP § 812.01). Therefore, since this restriction requirement is considered complex, a call to the attorney for telephone election was not made.

### ***Conclusion***

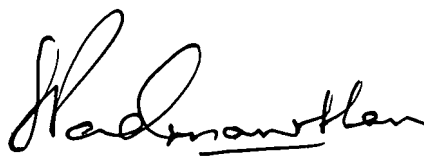
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong S. Chong whose telephone number is (571)-272-8513. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SREENI PADMANABHAN can be reached on (571)-272-0629. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YSC



SREENI PADMANABHAN  
SUPERVISORY PATENT EXAMINER